

Minutes
Legislative Council
Energy, Environment and Technology Interim Committee
June 13, 2005
Senate Majority Caucus Room
9:30 a.m.
Statehouse, Boise, Idaho

The meeting was called to order at 9:35 a.m. by Cochairman Senator Brent Hill. Other committee members present were Senator Tom Gannon, Senator Gerry Sweet, Senator Patti Anne Lodge, Senator Clint Stennett, Cochairman Representative George Eskridge, Representative Maxine Bell, Representative Steve Smylie, Representative Joe Cannon, Representative Ken Andrus and Representative Elaine Smith. Senator Curt McKenzie, Senator Elliot Werk and Representative Bob Nonini were absent and excused.

Others present included Russell Westerberg and Glen Pond, PacifiCorp; Ken Miller, NW Energy Coalition; Ron Law, Gene Fadness and Marsha Smith, Idaho Public Utilities Commission (IPUC); Sarah Bigger, Boise State University; Jack Jones, Area Three Advisory Council on Aging; Scott Pugrud, Connolly and Smyser, Ltd.; Bob Neilson and Lou Riepl, Idaho National Laboratory (INL); Greg Panter, Idaho Power Company; Nina Eng, Congressman Otter's Office; Gerry Galinato and Bob Hoppie, Idaho Energy Division; John J. Williams, Bonneville Power Administration; Dennis Tanikuni Idaho Farm Bureau; Ann Rydalch, Idaho House of Representatives and Idaho National Laboratory; Andrea Mihm, Sullivan and Reberger, Maggie Colwell, Idaho Association of Counties; Lynn Tominaga and Brenda Tominaga, Idaho Irrigation Pumpers Associations; Ken McClure, Givens Pursley; Ron Williams, Idaho Consumer Owned Utilities Association; Doug Glaspey, U.S. Geothermal, Inc. and Pike Teinert, ESG, LLC. Legislative Services Staff members present were Mike Nugent and Toni Hobbs.

Senator Hill commented that HCR16 is the resolution that authorized the interim committee and explains what it is required to do. The committee focus has been expanded to include the environment and technology as well as energy. He said that in forming this committee, it is the hope of leadership that it will help familiarize a core group of legislators with these issues so they can help inform other legislators when necessary. The committee purpose is not necessarily to come up with legislation but it is to become informed about these issues. **Representative Eskridge** agreed with **Senator Hill's** comments and noted that this is a significant and timely interim committee. One question that will be looked at is updating Idaho's Energy Plan. **Representative Eskridge** stated that the issue of whether Idaho needs an energy facility siting

act will also be discussed. This is important, in his opinion, because of the increased interest in generation in the state.

Mr. Robert Hoppie, Idaho Energy Division, was the first speaker. He gave the committee some background for the Idaho Energy Division. He said that the Idaho Energy Division is the energy division of the Idaho Department of Water Resources. **Mr. Hoppie** explained that the state's energy program merged with the Idaho Department of Water Resources in November 1981 because of the energy – water relationship. Executive Order 2001–06 maintains the Energy Division within the Department of Water Resources. Its duties are to provide technical information, and financial assistance for energy efficiency and renewable energy resources. The Energy Division is comprised of 20 people and uses principal energy specialists rather than bureau chiefs. These 20 employees make up roughly 11% of the Water Resource Department's staff. This division receives \$37,800 in General Fund money annually that is used as match funds supporting bioenergy activities at the University of Idaho. **Mr. Hoppie** stated that the balance of their budget is made up of federal funds, Petroleum Violation Escrow (PVE) funds and Miscellaneous Revenue funds totaling \$4,212,800. The Energy Division's total budget is just under 20% of the total budget for Idaho Department of Water Resources.

Mr. Hoppie said that one of the key programs the energy division administers is known as the energy loan program. This program is the first in the nation that was ever approved by the Department of Energy in 1987. These are 4% loans for energy conservation and renewable resource projects that are to be repaid in 5 years. A 15 year energy payback is required. Currently they have done 2,408 loans for a total of \$5.5 million. These loans have provided a total energy savings of \$3,991,442 to the borrowers.

The Energy Divisions also has an agricultural efficiency program that consists of:

- ◆ Irrigation Scheduling Program
 - workshops and seminars on energy efficient
 - irrigation equipment and practices
- ◆ Energy Production Opportunities
 - anaerobic digestion systems at dairies
- ◆ Facility and Operations Efficiency
 - heating, cooling, pumping systems, etc.

The renewable energy programs provide technical assistance on:

- ◆ Solar, Biomass, Geothermal, Wind, and small-Hydro resource applications
- ◆ Cooperative Projects
 - working with Idaho universities, local and state government, and the INL on projects of mutual value
- ◆ Educating the Public
 - creating awareness among Idahoans, young and old, on the benefits and uses of

the state's abundant renewable energy resources

Mr. Hoppie explained that biofuels are of particular interest at this time. This is partially due to the use of anaerobic digestion as a way to help dairies eliminate some of their odor and waste problems. Biomass is a program that uses timber waste and wheat straw into fuel. He noted that the Council School District is converting their entire heating operation to forest residue at a great savings to them.

Wind is another energy source that the Energy Division is working with. In this arena, the Energy Division has acquired, through cooperative agreements with DOE, 19 anemometers that are on loan to citizens, utility co-ops, American Indian tribes, local and state government. The Energy Division provides assistance through technical support, information and education to land owners and developers.

The Idaho Energy Division also provides assistance through the Geothermal Working Group relating both to power production for geothermal and use in aquaculture. **Mr. Hoppie** noted that the Department of Energy has worked with U.S. Geothermal to build what will be the first geothermal power plant in the northwest producing electricity at Raft River.

Mr. Hoppie went on to explain that the Energy Division works with schools and hospitals through the following programs:

- ◆ Rebuild Idaho – Institutional Buildings
 - The Energy Division has served 45,557,482 sq ft of public buildings.
 - Projected energy savings from these projects are \$4,083,169 annually.
- ◆ Public Buildings Commissioning
 - 4 projects, 643,210 sq ft
 - \$399,597 estimated savings annually
 - includes BSU Rec Ctr, Idaho Water Center, Ada County Courthouse, and Nampa City Hall
- ◆ Industrial Efficiency Programs
- ◆ Developing Controller standards to reduce unscheduled production shutdowns.

In construction of homes, **Mr. Hoppie** explained that the Energy Division works with the Energy Star Homes and Super Good Sense Manufactured Homes to provide more energy efficient homes.

The division partners with Idaho Power and the Northwest Energy Efficiency Alliance to certify Energy Star site built homes. He said they conduct builder and inspector training. Energy Star Homes consume 30% less energy than homes built to the Idaho energy conservation code.

Mr. Hoppie said that Idaho manufacturers produce 70 to 80 Northwest Energy Efficient Manufactured Homes (NEEM) each month. These homes use 30% less energy than

manufactured homes built to HUD standards. The Idaho Energy Division trains the manufacturers and inspectors.

Mr. Hoppie's complete presentation will be available as an attachment to these minutes at: www.legislature.idaho.gov.

Mr. Hoppie continued with a discussion of Idaho's Energy Plan and what needs to be done. He explained that this plan has not been updated since 1982. A copy of Idaho's current energy plan will also be available as an attachment to these minutes at: www.legislature.idaho.gov.

The question is should the energy plan be updated, should we start from scratch or should we do nothing. **Mr. Hoppie** said that while the plan is old, it was written in such a way that there are parts of it that are timeless. It does not quote numbers of kilowatts that need to be created nor does it quote therms of natural gas that need to be found. It just says the best interest for the state of Idaho is to conserve our energy resources. In **Mr. Hoppie's** opinion, this stands the test of time. He said they are waiting for direction from the Governor on how to proceed.

Senator Stennett stated that this committee played a key role a few years ago in developing the state's net metering projects. He asked how many net metering projects are currently in place. **Mr. Gerry Galinado, Idaho Energy Division**, said that based on communications with Idaho Power, there are approximately 12 residential projects in the Idaho Power area and about 2 in Avista's coverage area. He said that most of these projects are combinations of small wind power projects and solar panels. Unfortunately, there are no net metering projects in the irrigation arena. **Senator Stennett** stated that he has a constituent in Hagerman that has developed a small hydro net metering project that is very nice and he wondered how many other people had developed those and how much power was being generated by them. He would like to see if we are headed in the right direction with net metering or if more work needs to be done. **Mr. Hoppie** said that he would get that information for the committee.

Representative Bell said that from what she has heard, the Energy Division's role seems to be more about conservation rather than development of energy. She asked if the Energy Plan is redone, what direction will they head. **Mr. Hoppie** said that his presentation did focus on the fact that the current plan emphasizes conservation. He added that they do help support efforts to develop new sources of power such as geothermal and wind.

Senator Hill asked how they decide what projects to support. He asked if the Energy Division initiates what is done or do they respond to what is being done. **Mr. Hoppie** said it goes both ways, the division goes to power companies with partnership ideas and the power companies come to the Energy Division with ideas. The Division also pursues federal grants and is able to react when those grants are secured. Therefore, when grants became available for wind, the division knew Idaho has a lot of opportunity for wind and they pursued these grants vigorously. He added that this has been done quite successfully. Geothermal grants are also pursued.

Representative Smylie asked if grants were available to pursue using biomass to produce gas. **Mr. Hoppie** said that his department has helped dairies secure USDA grants. Three recipients in Idaho are eligible to receive these Title 9 grants but so far only one has gone forward due to internal constraints the operator must face. In response to what the committee could do, **Mr. Hoppie** said he would get more information for the committee but that the economy has a lot to do with this type of development.

Representative Eskridge asked if the Energy Division does a forecast of the state energy needs for the future and do they try to determine what types of energy will be available and where it is located. **Mr. Hoppie** said they do not do that. There was an assessment done in 1982 when the original energy plan was done but nothing has been done since that time. This assessment did not look to the future. He said that the U.S. Department of Energy does track all of the states natural gas, petroleum and electricity supplies. In response to another question from **Representative Eskridge**, **Mr. Hoppie** agreed that it would be prudent for the state to have some type of forecast or policy on how we plan to meet those future energy requirements. He added that doing this would involve regional authorities as well as the PUC. He offered to work with these groups to start such an assessment.

Senator Gannon commented regarding the anaerobic digesters and the grants that were received for those. He said that there have been timing issue in terms of what the dairies had to do to get prepared to receive the digesters. There is also a timing issue on the odor management side of these digesters dealing with the funding to study how effective this will be.

Senator Stennett asked if there was a mechanism through a PURPA contract or net metering for methane gas as there is for electricity. **Mr. Hoppie** the opportunity for using anaerobic digester gas was only with electric utilities, not natural gas. **Ms. Marsha Smith, PUC** said she believed that was correct also but added that could be changed in the future. **Senator Stennett** said, in his opinion, this committee should look at that option. **Senator Gannon** clarified that there is an ethanol plant near Rupert that intends to put gas into the pipeline. He said it was his understanding that this plant has a contract with Intermountain Gas. No one was certain if the contract with Intermountain Gas was in place. That information will be gathered for the committee.

Representative Cannon said that he builds anaerobic digesters for a living and stated that someone in his area has built a digester and it has been in use long enough that he knows what hurts the process of the digester and what works. He said that this man has not received any grant money and stated that for study purposes this digester could help move the process of other digesters along. **Representative Cannon** added that there is another digester being started that also has not received any grant money. This digester, located in Wendell, is at a standstill because they cannot get a building permit, due to technical issues. According to **Representative Cannon**, the grant money went to dairymen that have not started down the path.

Representative Cannon noted that Intermountain Gas is eager to accept gas from these types of

projects as the process is refined.

Representative Ann Rydalch, INL, was introduced to discuss projects and undertakings at the INL. She explained that it is her wish that Idaho become the energy leader of the nation. As seen from Mr. Hoppie's presentation, Idaho has had a lot of firsts regarding energy and with the new emphasis at INL, Idaho could do this.

Lou Riepl, INL, distributed a packet of information dealing with space batteries. He explained that these are compact batteries about 4 feet tall that provide both heat and electric power where it is otherwise unavailable such as in deep space. He said that today there is a team of Idahoans assembling the space battery that will be placed on the New Horizons spacecraft to be launched in January 2006. This will mark the first time in history that a made in Idaho item travels to Pluto and eventually leaves our solar system. **Mr. Riepl** said that this is a significant project for the INL and amounts to around \$18 - \$20 million per year of business. Construction of a consolidation facility, should the public and DOE conclude that is prudent, would lead to a \$200 - \$250 million construction project and annual budgets for these space batteries of around \$70 million. He invited the legislators to participate in a NEPA directed, public involvement series in late July. He said that this space battery project will be the sole subject of that series.

Representative Rydalch went on to explain that the Energy Division does a lot of work with a very small budget.

Representative Rydalch said she has a passion for energy. The reason for this is, in her view, if businesses can be made more energy efficient, that helps their bottom line. This helps eliminate the need for taxes to be raised. In the 1990s, it was found that there are nine industries that use up to 75% of the nations resources. These industries asked DOE-HQ for help regarding what they could do. She said that the DOE provided grants to help these industries help themselves by doing studies to show what is needed. These industries did these studies into the year 2010 - 2015 and found what they would need as far as their technologies were concerned. Those industries are agriculture, aluminum, chemical, forest products, glass, metal casting, mining, petroleum and steel. The program they started in doing these studies is called Industries of the Future.

After this program was started, the national level realized what they were finding was not being passed on to the state level. As a result of this, State Industries of the Future was started. This provided a \$250,000 to the Energy Division to start a program in Idaho.

Representative Rydalch said that in working on revising the state energy plan, after being given permission by Representative Raybould, chairman of the House Environment, Energy and Technology standing committee to pursue this, she explained to the Presidents of the three Idaho Universities and the utilities what was happening. In her opinion, this issue has many stakeholders and it cannot be done without the involvement of everyone. Currently, they are waiting to hear from the Governor on how to proceed.

Representative Rydalch said that on May 23, 2005, a conference call was held that developed a draft table of contents for the energy plan that includes a few changes from the existing plan. The draft version breaks up renewable resources to include biomass/bioenergy as a main category with municipal solid waste, wood and ethanol as subcategories of that. Energy use was added to the section on conservation with transportation being added as a subcategory here.

Representative Rydalch continued that they added a new category of Transmission/Pipelines with siting, testing, safeguards and security as subcategories.

In response to a question from **Senator Gannon**, **Representative Rydalch** explained that animal waste or anaerobic digesters could be added or covered in the biomass/bioenergy section.

Representative Smylie suggested moving nuclear energy to the renewable resource section. **Mr. Robert Nielson, INL Department Manager for Renewable Energy**, explained that the department that he runs focuses on renewable energy and that he has suggested this with limited success. **Representative Smylie** said that, in his opinion, nuclear energy needs to be considered and with the lead that INL has taken in this area, it could almost be its own category. **Representative Rydalch** agreed and said include nuclear energy in renewables had been discussed by others.

Representative Eskridge asked if there is any idea of what the state actually needs in terms of our energy resources. He asked if somewhere the energy plan will discuss what the state energy needs are and if it will discuss the amount of resource available and the cost in each of the categories in the table of contents. **Representative Rydalch** said that this can be done any way the committee wants. In her opinion, this needs to be included to make this a true plan that can be utilized into the future.

Mr. Nielson commented that perhaps the most critical part of this process is deciding what kind of energy plan update, revision or rewrite would be the most useful to the state. He said that is not clear at this time. The original plan focused primarily on electricity with some mention of petroleum resources. He added that the easiest way to meet energy needs of the future is to reduce the energy use through conservation and efficiency today. He said that in doing the update, they would not think of proposing to make policy recommendations. He said they might suggest policy areas that could be considered. More direction from the Governor and the legislature is needed.

Mr. Nielson said that last February he gave a presentation on INL's energy portfolio that talked about the work they do with nuclear energy, renewable energy, fossil energy, other energy resources and energy efficiency. The message he was trying to convey was that INL is a resource to the state, not only in terms of their jobs but in terms of information and technology resources to business in the state and to government entities and to the legislature. Energy information can be critical in making policy decisions and **Mr. Nielson** said that INL wants to be able to work with legislators to the extent that their services are desired.

Mr. Nielson stated that a workshop on energy issues that will be discussed later is something INL has considered as critical or very important toward where the state might go regarding an energy plan document.

Mr. Nielson added that the INL works very closely with the Idaho Energy Division and realize that they face funding issues. He noted that through existing resources, INL has received authorization to support the energy division in preparing or revising the energy plan once the direction is decided upon.

Mr. Nielson said that INL held the inaugural standup meeting for the Center for Advanced Energy Studies. He explained that this is a center whose initial focus is on nuclear energy and gets involved with issues such as education, training and research. One of the major issues on the nuclear energy side is whether nuclear energy should be pursued in the United States.

According to **Mr. Nielson**, there are a number of reasons the country should do this such as climate change and energy dependence. The question is, since many universities nuclear power programs are falling by the wayside, who will run these plants. One of the things the INL wants to do, in their role as the lead laboratory for nuclear energy, through the Center for Advanced Energy Studies is to look at trying to address some of those issues. If there is to be a nuclear renaissance in this country, this needs to be done. He added that the Center for Advanced Energy Studies is in a state of flux. There are things that they have specifically proposed be done but there are many things still on the plate that have not been addressed.

Senator Hill asked how long it has been since a new nuclear power plant had been built in the United States and if we were using the same technology that is used in Europe. **Mr. Nielson** explained that France generates approximately 80% of its electrical energy with nuclear power and has done so for years. The United States currently generates 20% of its energy from nuclear power and most of these plants were built between 20 and 30 years ago. There have not been any new nuclear power plants built in the United States in the last 15 to 20 years. This raises the issue regarding the country's position in terms of nuclear energy. It can be argued that if the United States does not aggressively look at development of new nuclear energy technologies, we basically cede the nuclear plant construction business to the French, Japanese and other countries that are pursuing this. Having said that, **Mr. Nielson** noted that some of the major nuclear construction companies in this country have developed public-private interactions where they have been developing new and safer nuclear reactor designs. There are two designs by U.S. manufacturers that have been licensed by the Nuclear Regulatory Commission. He said the DOE is focusing on what would it take to incent utilities to actually build one of these plants.

In response to another question from **Senator Hill**, **Mr. Nielson** said there are government grants that have been involved in some the U.S. design efforts. He said that the largest portion of money for these designs has been provided by the companies themselves.

Senator Gannon said that he had heard the General Electric (GE) had a nuclear power plant they

were selling in Japan that is basically a turn-key. **Mr. Nielson** said that was true and GE is one of the companies that has designed one of these new passive reactors. He added that these new designs are more modular so they can be placed almost anywhere without a lot of customizing. There have not been any sales of these in the United States, largely due to what happened 20 or 30 years ago.

Senator Gannon asked what France is doing with their nuclear waste. **Mr. Nielson** explained that the Europeans have a different view of nuclear waste than the United States. In the U.S., during the Carter administration, it was decided that nuclear fuel was not to be reprocessed. This decision was made to set an example for the rest of the world. If nuclear fuel is not reprocessed, it makes it much more difficult to provide a source of nuclear materials that could be used for nuclear weapons. Other countries do not have this view and the French reprocess their nuclear fuel. Reprocessing the nuclear fuel also provides a great amount of additional energy and reprocessing also makes nuclear waste less long lived reducing the waste disposal problems the U. S. faces. **Mr. Nielson** said that the INEL is looking at reprocessing strategies and what this would mean for the waste issue. With the hold up at Yucca Mountain, Congress has begun talking about interim storage and/or reprocessing nuclear fuel to help solve this.

Representative Eskridge said that in his opinion, until the issue of nuclear waste is solved, the people of the United States are not going to support nuclear power plants. He said that safety of the plants is not as big of a concern as the waste issue. **Mr. Nielson** agreed that was a problem. He said that unless there is plan on how to deal with nuclear waste, it is hard to make the argument to build more plants. In his opinion, this is more of a political issue rather than a technical issue. He admitted that nuclear waste is very deadly but the advantage of high level nuclear waste is that it is also very concentrated. There are relatively small amounts that can be placed in areas with large amounts of protection to keep people away and to keep it out of the environment. He said that this is no worse than coal plants putting the majority of their waste up a stack and dispersing it into the environment for disposal. He said that question is how to motivate Congress to address the issue.

Representative Rydalch commented that it takes several years to study the technology to make reactors better and, in her opinion, regardless of the waste issue, this will pay off in the future.

Representative Eskridge agreed and said he does not want to see the research and development of new technology stop. He expressed his concern that none of this technology will be used due to political issues.

Mr. Nielson stated that in 1982, Congress passed legislation stating that in 1997 the federal government would take ownership of spent nuclear fuel from commercial reactors and store it in a repository. The question is why hasn't this happened.

Representative Bell said that she had no idea the energy plan was that old. She asked if the goal was that Governor and the germane committee provide an updated energy plan for the state of Idaho and that this committee be able to do what is needed with policy changes. **Representative**

Rydalch said that was their goal. The timing of this depends on the direction from the Governor. **Mr. Hoppie** said this has been discussed with Director Dreher and he agrees direction is needed and said he would discuss the issue with the Governor at his next meeting. Mr. Jim Yost of the Governor's Office has also been briefed on this issue.

Representative Eskridge complimented **Representative Rydalch** for bringing this issue to the forefront during the last legislative session. He added that the Energy Division has been doing what is expected of them since 1982 by focusing on conservation and development of renewable resources. In his opinion, this issue is timely in Idaho because coal fired generation is being considered as well as wind, nuclear and so on. **Representative Rydalch** said that she believes that policy should be designed for the policy makers and the process needs to be followed to do this correctly.

Representative Rydalch returned the discussion to the draft table of contents and stated that the section for local government was expanded to include regional and state government. She added that federal government could also be included due to the large role they play in energy issues.

The last item on the draft is technology. This is a new section that was added because of the changes that occur on the national level.

Representative Rydalch said that she was chairman of the Federal Laboratory Consortium (a national technology group) in 2001-2003. She explained that this is a network of over 700 federal laboratories throughout the nation and 17 federal agencies. This group deals constantly with technology and what is happening in the field and how businesses and states can benefit from those technologies.

Senator Hill said that Director Grossenbacher, INL had indicated that this committee would be welcome at the facility for a tour and possibly hold a meeting there. **Senator Gannon** suggested doing this during the Southern Idaho Tour.

Ms. Sara Bigger, Environmental Science and Public Policy Research Institute at Boise State University, was the next speaker. She distributed a copy of a proposal for \$10,000 that was submitted to USDA Rural Development to host an Idaho Energy Symposium. It is her opinion that such a symposium would dovetail nicely with the efforts Representative Rydalch and Mr. Nielson are taking at the INL.

During the session, **Ms. Bigger** said that she began talking about state energy policy with PUC Commissioner Paul Kjellander, Mr. Jim Kempton, Northwest Power and Conservation Council and Mike Field at USDA Rural Development, not knowing that a state energy plan existed.

In **Ms. Bigger's** opinion, this \$10,000 would be enough money to allow this committee to hold a type of symposium or meeting of the minds regarding energy policy in Idaho. At this point, there should be enough flexibility in the proposal to meet the committee's needs and INL's needs. The

idea is to hold a two day conference workshop with speakers on various aspects of energy in Idaho followed by breakout groups that would look more closely at what the issues are.

Ms. Bigger said that her goal is to put together a conference that is useful for this committee in looking at the energy plan, useful for INL in revising the plan and useful to the industry to be able to proceed on their own to address some of these issues.

In response to a question from **Senator Hill**, **Ms. Bigger** explained that the grant for the proposal requires that a planning committee put together a symposium with a final report to be delivered to this interim committee. That report would contain issues that the working groups define and potential solutions. The final report would also be delivered to the INL and whomever else might be involved in revising the state energy plan. **Representative Rydalch** commented that in her opinion, this type of information would be very helpful.

Representative Eskridge asked if the symposium would be an attempt to generate public input into development of the energy plan. **Ms. Bigger** said that was her idea. Her idea for the symposium was also to provide an arena to get all parties involved together to help gather information necessary for revision of the plan more quickly. She hopes to have the symposium scheduled in about two months and have the final report to the interim committee by December.

Senator Hill asked for more information on the Environmental Science and Public Policy Research Institute (ESPRI). **Ms. Bigger** explained the ESPRI was established at Boise State University about 3 years ago with the idea that it would be an objective entity that does not advocate for any position but can bring resources to an issue. They can examine the hard science of an issue, public opinion, cultural aspects, analysis of public laws and implementation. The institute also does public involvement projects by providing information to citizens around the state. The purpose is to try to provide decision makers with information to help them make those decisions. The institute includes three full time staffers with two part time employees. The institute also uses BSU students when funding allows it. She explained that Senator Craig gave the institute a start up appropriation through the Boise National Forest. They rely on other grants and contracts to keep them sustained for the long term.

Commissioner Marsha Smith, PUC, was the next speaker. **Ms. Smith** explained that electricity is essential to our economy. Many residential and industrial processes and applications can only be performed with electricity. One prime example is computers. She noted that even though the west experienced an economic slump, demand for electricity is increasing again.

Ms. Smith stated that even during a great water year when electricity prices go down, consumers cannot buy a huge supply of it to keep on hand for use during times of drought. It cannot be stored. Utilities can store electricity on a very limited basis in a hydro system by storing water behind dams. She explained that there are multiple uses for the water that sits behind dams and there are extremely tight rules and regulations on how and when the water is released from those

dams. In her opinion, the last six years have been a wake up call to this region. If we had normal water every year, the region would probably be in good shape. Since that did not happen, we need to be prepared.

Ms. Smith reminded everyone that of all the laws passed, the laws of physics cannot be repealed. At every moment in time the exact amount of power being used has to match the amount of power being generated. If it does not, the whole system will fail. This is known as instantaneous balancing, not only of supply and demand, but also of frequency and voltage. An example of this balance being lost happened on July 2, 1996. On that date, the western interconnection lost the balancing of demand and supply and a cascading outage occurred across the western United States. This also happen in August of 2003 in the eastern interconnection.

Ms. Smith explained that after the outages in New York in 1965, the North American Interconnection System, that includes Canada, was divided into three segments; the Western Interconnection, the Eastern Interconnection and ERCOT which is Texas. These interconnections operate separately on a physical basis electrically. The Western Interconnection includes all of the northwestern United States, Northwestern Canada and California down to part of Baja, Mexico. It also includes Arizona, New Mexico, Nevada, Utah, Colorado, Wyoming and Montana. This is the area that must constantly be balanced between supply and demand and over which the voltage and frequency has to be stable. In her opinion, it seems pretty miraculous that our system works as reliably as it does. It does so because historically a lot of things have been done to insure that.

Ms. Smith said that on an interconnection basis there is an organization called the Western Electricity Coordinating Council (WECC) of which she is a board member. The WECC sets the reliability standards that all of the utilities who own and operate transmission and generation must meet. The WECC focus is on reliability or maintaining the integrity of the system so cascading outages do not occur. **Ms. Smith** said that there is a debate in the industry and at WECC regarding whether WECC should turn to looking at if there is enough transmission and generation to have a west wide wholesale market in this area.

Another big issue is resource accuracy. An interconnection wide organization, the Committee for Regional Electric Power Cooperation (CREPC) is comprised of all the public utility commissioners, state energy officers, governor's offices and state siting agencies in these WECC states and provinces. This committee meets twice a year and **Ms. Smith** is the current chair. This organization is a forum for policy makers to talk about the issues of the industry that they deal with daily. Resource accuracy is one issue they continue to discuss.

Ms. Smith explained that there is a working group that consists of staff members from nine different states and provinces called the West Wide Resource Assessment Team. This team was formed to make sure that all of the states count their resources in the same manner in order to make sure the region has enough supply to cover the peak need times. Making sure we have enough power regionally is important because there are tremendous opportunities for saving

money and having efficiency because of the diversity between the northwest and the southwest and California. She explained that the Southwest and California peak in the summer so that is when they need most of their energy, the Northwest and Canada peak in the winter and need the energy for heating. The region has voltage transmission lines that can carry power both ways and this can be done seasonally or even by time of day. In 2001 and 2002 when California was short, they arranged a deal with BPA to have power sent south during the day to cover their peaks and at night California would send twice as much power back. Because of the hydro system, BPA could hold water to generate power for the next day. According to **Ms. Smith**, this saves everyone money because no one utility has to have all of the resources it needs to provide enough energy for its loads.

Ms. Smith went on to discuss who provides this. There are a variety of entities that provide electricity. Investor owned utilities (IOUs) such as Idaho Power, PacifiCorp and Avista in Idaho are regulated by states according to the state law. These state commissions have only the powers given to them in their state statutes. The Federal Energy Regulatory Commission (FERC) regulates wholesale sales and sales for resale. They are the wholesale providers and on the gas side, FERC also sites gas pipelines. Rural electric cooperatives are regulated by some states. Municipalities are regulated by city councils or power authorities. The Federal Power Marketing Agencies such as Bonneville Power Administration (BPA) in the west, do not own or operate the dams, they market the power that is generated in the federal hydro system.

Ms. Smith explained that traditional rate making is based on an obligation for the IOUs to serve all those in their service area. In return for that, they are entitled to recover all reasonable expenses they put forth to provide that service plus a reasonable rate of return on their investment. The PUC is supposed to make sure the IOUs are doing this and that they are properly compensated. This system has been in place about 100 years. The results of traditional regulation provided construction of generation facilities pursuant to state choices and resources, extension of service to rural areas, interconnection with other utilities and eventual regional cooperation including high-voltage transmission lines.

In 1992 Congress passed the Energy Policy Act. The theory behind this is that the generation of electricity need not be done by a monopoly. The generation of electricity could be in the market and that there could be competitors to provide it. The energy policy act broadened the ownership of generating facilities to non-utilities. In 1995, FERC followed up by saying that it will not do any good for a non-utility generator to make electricity if it cannot get that electricity onto the transmission lines and actually sell it to someone. FERC Order 888 is a requirement that utilities that own transmission lines open those facilities to non-utility generators. There is an open access transmission tariff that sets rates for that service to be provided by all transmission owners and operators. **Senator Gannon** asked if there is a limit to the amount of electricity the transmission owners must accept from non-utility generators based on capacity. **Ms. Smith** answered that there are extremely complex formulas used to determine available transmission capacity and they are only required to sell what is available. This is an area of dispute over what transmission is available.

Ms. Smith, as an interesting sideline, explained that a wind project is intermittent. This means if wind tries to get a contract for a firm transmission price, 24 hours a day, 365 days a year, it can not afford it. Wind is only used when it is generating. To help solve this problem, BPA, with the support of FERC, is developing a new transmission product called *conditional firm*. This is an example of experimentation with new transmission products to better utilize the facilities that we have without impairing the ability of the local utility or the load serving entity to get the energy to the customer that are the load.

Ms. Smith said that a few years ago there was a series of arguments that individual customers should have retail access or be able to pick their own energy provider. In 1996, an interim committee on Energy studied this issue for at least three years and then made a policy statement saying that was not believed to be appropriate in Idaho. The PUC research at that time showed that there was no way to introduce retail access on a residential level without raising rates. This is where Idaho is today.

FERC Order 2000 established Regional Transmission Authorities (RTOs) that were to actually operate the transmission system, make the calculation of available transmission capacity and oversee the tariffs. The thinking was that this would make it clear that no utility that owns and operates transmission can give preference to its own power. This RTO debate has been going on for many years.

RTOs, if they take effect, require that the owners of transmission give over control or ownership to the RTO. This is a problem, especially in the northwest, due to the fact that there is so much public power. Public power is nonjurisdictional to FERC, they are only jurisdictional to the investor owned utilities.

FERC is now doing Standards of Conduct for interstate gas pipeline and electric transmission line owners. **Ms. Smith** said that this is somewhat of an impediment to the state's integrated resource planning process that the PUC requires of our utilities. The PUC requires that every two years utilities file a plan projecting their loads and their resources for the next ten year period to ensure that they are adequate. These FERC standards of conduct now mean that these companies generation staff cannot talk to the transmission people. She explained that this separation is supposed to make it so that there is not preference given by the transmission people to their own companies generation. In her opinion, on the planning side, this does create an obstacle.

Ms. Smith explained that due to these changes, it has been suggested that Idaho needs an energy facility siting statute. In her opinion, not having such a law leaves Idaho open to several possibilities. Currently the only oversight to where a plant is built is done by county commissioners in the proposed area. There is also an air quality assessment done by DEQ and a water assessment done by the Idaho Department of Water Resources but the actual siting is decided only by the county commissioners.

She said it is something to think about as to whether or not the state should have a process that is codified that would define how these developers interact and fulfill the requirements that the legislature thinks is important.

Five states in the west have siting statutes. These include Arizona, California, Oregon, Washington and Montana.

In response to a question from **Senator Stennett**, **Ms. Smith** explained that even an investor owned utility that is regulated by the PUC would not be sited through the PUC. If the plant was built as part of their regular operations, they come to the PUC for a certificate of public convenience and necessity. She added that with a plant such as was proposed in Middleton that was proposed by an unregulated subsidiary of Idaho Power, the PUC only has a review of the contract between the builder and Idaho Power regarding the price of the power they are buying. **Senator Gannon** clarified that as he understands this currently, if a power developer comes into Idaho with no contractual relationship with any Idaho power companies, the PUC has nothing to do with it. **Ms. Smith** said that was correct.

Ms. Smith posed the following questions as possible items that need to be considered in establishing a siting statute.

- ◆ Size and composition of the decision-making body.

Ms. Smith explained that each state that has a siting statute, chose a slightly different approach. Some of them have a permanent siting body that is always staffed and ready to do analysis. Others assemble the reviewing body on a project specific basis.

- ◆ Determination of need

She explained that in the past, a power plant could not be built unless the developer got a certificate of need. After the energy policy act of 1992, in her opinion, to truly have a competitive generation market, a certificate of need should not be required. If the market thinks there is a market for their power they should build the plant and find out.

- ◆ Size of plant for review

Each state varies a lot regarding this. Most states leave smaller plants up to review by local processes. Oregon has prepared a guidebook with model ordinances to encourage and facilitate energy planning needs at the local/county level.

Senator Gannon asked if, for siting requirements, there is any distinction made as to what type of facility is being built. **Ms. Smith** said that, in her opinion, there is a lot of room for a state to express a preference for the type and location of projects they want either through the siting agency or through a policy statement. Some states have specifically indicated a preference for

certain types of generation by instituting Renewable Portfolio Standards. These mandate that the utilities serving customers in their states get a certain percentage of generation from what they deem renewables. **Ms. Smith** said that there is an infinite variety of things they could express a preference about but she cautioned that this has to be paid for eventually. Every utility has a different mix of loads and resources readily available to provide service and this needs to be taken into account when developing such renewable portfolio standards.

◆ Process

This includes what kind of notices will be required as well as whether or not hearings will be held. In **Ms. Smith's** opinion, the process has to include some way for the public to feel that they have a place to be engaged and a place to be heard. She added that the local government officials also need to feel that their concerns and authority are properly considered and accounted for.

◆ Who makes the ultimate decision

Ms. Smith found it astounding that in the state of Washington that has a permanent siting board that makes these recommendations but ultimately the Governor can simply say no. This is the only state that does it this way. In other states the council or board makes the recommendation and that is the decision. These can usually be appealed to courts. **Representative Eskridge** asked if the Washington board recommends not to build a plant, can the Governor also say build it anyway. **Ms. Smith** said that was her understanding.

Representative Bell asked how this siting process fits with the entity getting the permit that is required from DEQ. **Ms. Smith** said that her vision of this would have DEQ as a major player on the siting council. She added that DEQ's process would then run simultaneously with the land use planning process, water evaluation process and all of the other studies required. In her opinion all of these processes and requirements need to be coordinated and that is the main purpose of having a siting statute. It allows for the proper mix of agencies to be involved in the process and have it progress in a coordinated manner. **Representative Bell** asked if this would also include the local entities. **Ms. Smith** said that, in her personal opinion, it has to.

Representative Smylie said that there seems to be a disconnect in Idaho between the IOUs and other entities that are regulated by the PUC. As he understands this, those would be under the PUC purview if they decided to build a plant. He asked if that was correct. **Ms. Smith** explained the PUC regulates the IOUs consisting of four electric utilities and two gas utilities. She clarified that the IOUs come to the PUC for a certificate of convenience and necessity if they are building a plant as the regulated entity. The public power companies nor anyone else would do that. **Representative Eskridge** reiterated that the PUC has no authority over siting, they only determine whether or not the need is there and whether the power produced can be put into the rate base. **Senator Gannon** explained that currently the land use planning act is the only thing that governs siting with DEQ setting standards for air quality.

Senator Hill asked what the advantages to having a state siting statutes were. **Ms. Smith** said that, in her opinion, it would be that there would be an organized, coordinated central place for a developer to go. Developers would also not have the opportunity to *shop* their site by finding favorable conditions over one county line or another.

Ms. Smith noted that her presentation does not express the opinions of the PUC.

Representative Cannon said that there is a sense that if someone wants to make an electricity generating plant of whatever size, that they are somewhat held hostage by those who own the transmission. **Ms. Smith** stated that was the issue FERC was trying to address with Order 888 and Order 2000 which was the RTO requirement. **Senator Stennett** said it would seem that the people of Idaho have helped Idaho Power recover the cost of building transmission yet have no say in that transmission. **Ms. Smith** said would be true if the company's power was not serving load in Idaho. The transmission to serve load is suppose to be reserved for the load serving entity to service it. If there is extra transmission available, the load serving entity can do whatever they want with it. This is why the RTOs are not readily accepted. In many RTOs in the eastern interconnection, the physical rights over the transmission system are given up to the federal government. Financial rights are retained. People are very concerned that if all they have is a financial right, it will not be good enough to actually get the electron to the load.

In response to a question from **Representative Cannon**, **Ms. Smith** said that, in her opinion, the benefit of this interim committee is to work on the state energy plan to tell the policy makers who have some authority over the IOUs what type of resources the state is interested in. Policy direction is needed and, in her opinion, the legislature should be the policy making body and then the agencies, such as the PUC, should go out and do their best to make sure state policy is implemented. She said that this committee, even without legal jurisdiction, can have a tremendous impact on the state's energy future and fact that Idaho citizens will always have good service.

Mike Nugent, Legislative Services Office, distributed a copy of draft Energy Siting Legislation that was proposed last session by **Senator Stennett**. **Senator Stennett** explained that there were several articles last summer and fall stating that the interior west is on the road to becoming an energy colony for the west coast. There have been three coal fired power plants proposed for Idaho alone. Due to these facts, **Senator Stennett** felt that the state was sacrificing its clean air and water to send electrons elsewhere. He said that in researching this siting legislation he found that almost every state in the country has some sort of siting legislation.

Senator Stennett discussed key points of the legislation and suggested that the committee review those and compare them to what has been discussed today and come up with a final piece of legislation to present to the legislature.

Key points:

- ◆ It would provide a council that would weigh in on power plants that would be sited at 100 megawatts of generating capacity or more. The council would also weigh in on alternative energy plants over 25 megawatts and on siting of transmission lines over 200,000 volts
- ◆ The council would be made up of representatives from DEQ, Fish and Game, Health and Welfare, Commerce and Labor, the President of the PUC, the Department of Water Resources and our representatives on the Northwest Power Planning Council. In addition to that the cities and counties that are home to the proposed site would have representation on the council. He added that any other city that felt they wanted representation could petition the board for that representation.

Senator Stennett said that he developed this out of concern when the merchant plant was proposed for the King Hill area. The proposal was to locate on the very edge of Elmore County with them getting all of the tax revenue while all of the issues would be dealt with in the Magic Valley that had no say in the siting of the plant. In his opinion, this is a regional decision that should not be made solely by a majority vote of the county commissioners. He explained that the process proposed by the legislation is similar to Idaho's hazardous waste process that was developed to consider sites for hazardous waste disposal.

- ◆ The council would have to make a decision within 12 months.
- ◆ Cities and counties would hold hearings and take public testimony.
- ◆ Appeals would go directly to the Idaho Supreme Court.

Senator Gannon asked if that was legal. **Ms. Smith** said that the PUC appeals go directly to the Idaho Supreme Court and, it is her understanding that the legislature can direct which court appeals go to.

- ◆ The applicant has the responsibility to prefile an application notification and to indicate to which city or county that it intended to file an application 60 days prior to filing. A study of the sites would be completed prior to the application. This council would be able to hire independent experts to do these studies.
- ◆ Fees would be charged and any fees that were not used during the studies would be sent back to the applicant.
- ◆ Once the application is submitted, public hearings would be held by the city and county and other communities affected. These local governing bodies would submit reports and recommendations to the council.

In response to a question from **Senator Gannon**, **Senator Stennett** said that the council itself

would also hold hearings.

A copy of this draft will be available as an attachment to these minutes at: www.legislature.idaho.gov. **Senator Hill** stated that comments regarding the legislation are welcome from anyone interested.

Representative Smylie said that in looking at the list of states with siting laws, Utah and Wyoming are missing. He said that most of the sites being discussed are in the area where a developer could move across the state line with relative ease. In his opinion, it is important to get input on this from the IOUs. He cautioned creating something that would make siting so difficult in Idaho, developers automatically go elsewhere.

Representative Eskridge asked if there was a time requirement for when each agency or body need to make their recommendations. **Senator Stennett** said that cities and counties have 60 days and the entire process must be completed within 12 months. **Representative Eskridge** suggested a more concrete statement of timeliness for each agency involved.

Representative Eskridge asked how transmission would be involved in this. **Senator Stennett** said that transmission over 200,000 volts would fall under this siting requirement.

Senator Stennett clarified that the council is the ultimate decision making body and could override any recommendations from local entities.

Representative Cannon asked if this draft requires that any construction cost over \$250,000 be subject to the permitting process. **Senator Stennett** said that was correct if the it is for a power plant over 100 megawatts or and an alternative energy plant over 25 megawatts.

In response to a question from **Representative Smith**, **Senator Stennett** explained that he required that plants over 100 megawatts be subject to this permitting process because these are usually somewhat larger plants such as Bennett Mountain in Mountain Home. **Mr. Ron Williams** said that plant was 165 megawatts. **Senator Stennett** said that number was open to negotiation.

In response to a question from **Representative Cannon** regarding the present system, **Ms. Smith** clarified that currently a developer gets a land use permits from local planning and zoning, gets an air quality permit from DEQ and a permit for water from Water Resources, if necessary. These are all done separately with no coordination between groups. The state does not deal with the actual siting of any power plants.

Senator Stennett commented that what this committee is doing regarding the Idaho Energy Plan ties closely together with siting and if Idaho decides to do this, that is a policy statement. Siting would then be an outgrowth of the policy statement. In his opinion, the energy plan needs to include some level of state oversight.

Representative Cannon asked if it is currently a state decision as to whether a power plant locates in Idaho. **Ms. Smith** said no, the actual location decision is made by city and county planning and zoning agencies. Air and water quality permits are done by state agencies but that is all. **Mr. Ron Williams** said that having gone through the permitting process with Bennett Mountain, in his opinion, it is a combination of state and local policies that determine whether a plant will be allowed. He said that if much water or air is involved, DEQ and Water Resources do studies and issue permits. The siting issue is still local and he agreed with **Senator Stennett** that the local entities must be involved in the siting decision because they are most directly impacted. He added that there is probably a difference in local impacts on transmission versus a generating project. There are also local benefits including property taxes that drive a lot of siting decisions.

Representative Bell asked if the attention that is being paid to siting is due to the fact that it is a coal fired plant that is being considered in the Glenns Ferry area. She said she is concerned with the state getting involved in siting and leaving the counties and cities behind. **Senator Gannon** suggested having the Associations of Cities and Counties address this issue at the next meeting. He added that this issue is not limited to coal fired plants. As other forms of alternative energy are also reasons for concern. **Senator Stennett** said there are three power plants being proposed in Idaho. One is proposed in Power County but all of the impact will be felt by Pocatello. It is for reasons like this, he feels there should be some type of regional planning process.

Representative Eskridge said that his understanding of a siting law is not to stop facilities from being built but to help fulfill a statewide need. He added that this siting does not just involve coal, it involves that fact that currently a plant of any type can be located in one county that affects another county and the affected county has no say at all. If a generator, in his opinion, was serving just a county's need, that would be a local county issue. When the power is actually going beyond those borders and serving a section of the state or, in our case, a region, it becomes a bigger issue and needs more coordination. **Representative Eskridge** reiterated that a siting law should not be made with the intent to stop, it should be made with the intent to maximize the resources in the most efficient way to satisfy the need.

Senator Hill went on to ask committee members what they would like to see addressed at future meetings.

Representative Andrus stated that he was concerned with the high price of gas and he wanted to be involved in trying to find a solution.

Senator Gannon said that once he was assigned to the committee he began to realize that if the state energy plan is going to incorporate all of the issues including agriculture, crops, ethanol, and so on, without the support of this committee, it will be difficult to get that through the legislature. He sees this committee's members role as that of experts to try to help educate other legislators on the issue.

Representative Smylie said it was important that the committee not try to reinvent the wheel. He suggested that it is important that the committee use expertise that is already available to gather information. He suggested that, since Idaho Power's IRP committee creates an energy plan for the state of Idaho, the committee use this information in their process. He suggested the committee try to get a better handle on what has already been done and is available.

Representative Smylie continued that last week the Office of Science and Technology held a great forum that discussed where the state is headed technologically. He suggested having Mr. Tueller speak to the committee at a later date.

Senator Gannon suggested building upon the siting legislation for the next meeting. In his opinion, this is something that the committee needs to get started on so that a recommendation can be made to the legislature at the next session. **Senator Stennett** wanted to make sure that everyone has time to comment on the draft version.

The next meeting was tentatively scheduled for August 8, 2005.

In response to a suggestion from **Representative Smylie**, **Mr. Tueller** said that he would be happy to speak to the committee. **Representative Smylie** also suggested having Idaho Power share some of their IRP with the committee.

Representative Eskridge suggested continuing to work on the siting issues as well as the state energy plan. He added that he is curious what **Ms. Bigger's** symposium will bring out in terms of what other people think the energy plan should look like.

In **Representative Eskridge's** opinion, the siting legislation and what the energy plan should look like are two items that the committee can actually grasp and possibly make recommendations on this year.

Representative Elaine Smith announced that the Southeast Idaho Legislative Tour is being held September 25 through 28. She encourage all legislators to RSVP and said that there will be a visit to the INL, Monsanto in Soda Springs and the future proposed site of a coal gasification plant in the Pocatello area.

The meeting was adjourned at 2:40 p.m.